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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,005	01/20/2004	Ehud Cohen	U 014996-9	1642

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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER

NATNITHITHADHA, NAVIN

ART UNIT	PAPER NUMBER
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3735

MAIL DATE	DELIVERY MODE
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08/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,005

Applicant(s)

COHEN ET AL.

Examiner

Navin Natnithithadha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 277,279-301 and 316 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 277,279-301 and 316 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06042007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 277 and 279 have been amended. Claims 1-276, 278, 287, and 302-315 have been cancelled. Claims 277, 279-286, 288-301, and 316 are pending.
2. The objections to claim 287 is WITHDRAWN in view of the Amendment.

Response to Arguments

3. Applicant's arguments with respect to claims 277, 279-286, 288-301, and 316 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 277, 287, 288, 291-301, and 316 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conrad, US 2,816,997 A ("Conrad"), in view of Woodard, US 5,984,711 A ("Woodard").

Claims 277, 287, 288, and 291: The critical part of Applicant's invention appears to be the structural arrangement of an "implantable circuitry", "a lead wire", and "an electrically-conductive hollow tube". Conrad teaches a medical apparatus for placement in a patient (see fig. 4), comprising: implantable circuitry (thermistor) 8, having medical functionality, which is adapted to be placed implanted in the patient and incorporated in

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a catheter ("suitable for incorporation in hypodermic needles or catheters for use in measuring local temperatures in the human or other animal bodies", see col. 1, ll. 15-19), and is a temperature sensor; a lead wire 74; and a hollow tube ("tube") 80 soldered (at 78) directly to the circuitry 8 and coupled to the lead wire 74 so as to be electrically coupled thereto.

Conrad does not teach "wherein the hollow tube is crimped to the lead wire, so as to be mechanically coupled thereto." However, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify Conrad's tube 80 because Applicant has not disclosed that having a tube crimped to a lead wire provides an advantage, is used for a particular purpose, or solves a state problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the lead wire 74 soldered to tube 80 (at 78) because both provide the same result, which is an electrical connection between a circuit and a wire.

Alternatively, Woodard teaches catheter 10 comprising crimping a hollow tube ("conductive tube") 30 that is crimped to a lead wire ("electrode wire") 16 so as to be mechanically coupled thereto (to frictionally engage the electrode wire," see col. 4, ll. 27-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Conrad's tube 80 to be crimped to the lead wire 76 in order to provide improved connection between a wire from an electrophysiology device, such as Conrad's implantable thermometer catheter, and a conventional wires leading to external circuitry (see col. 2, ll. 15-44).

Claims 292-301: These claims appear to be alternative species of the “implantable circuitry” that are not critical to Applicant’s invention. Since Conrad teaches a temperature sensor (thermistor) 8, Conrad teaches one of the species claim 295 and the generic claims 291 and 297 (sensor can be considered an active element for “actively” sensing a parameters, such as temperature).

Claims 316: This claim contains subject matter regarding a process for manufacturing the apparatus of claim 277 and does not further limit the structural elements of claim 277. Thus, Conrad anticipates the structural limitations of claim 316.

5. Claims 280-285, 289, and 290 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conrad in view of Woodard as applied to claim 277 above, and further in view of Skubitz et al, US 5,851,226 A (“Skubitz”).

Claims 280-285, 289, and 290: Neither Conrad nor Weinand explicitly teach the lead wire 274 comprises MP35N, platinum/iridium, alloys having low iron content (i.e. 1-60%, 1-40%, or 1-20% iron by weight), or silver and the connector is coated with gold or comprises steel. However, Skubitz teaches “outer conductor 55 may optionally comprise wires formed of a nickel-titanium alloy such as NITINOL.TM. [i.e. MP35N] , platinum, gold, silver, palladium, other noble metals, and other alloys [i.e. steel] or metals suitable for use in the human body. NITINOL.TM. may be purchased from Fort Wayne Metals of Fort Wayne, Ind.” (see col. 16, ll. 51-62). In fact, Applicant’s disclosure, on page 7, lines 27-32, admits that “these materials have proven to be both

safe and effective for many applications in the human body". Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Conrad's lead wire 76 (or Weinand's lead wire 12) and hollow tube 80 to comprise the materials of claims 280-284 and 289 because these materials are well known in the art to be suitable materials for use in the human body, as stated by Skubitz (see col. 16, ll. 51-62).

6. Claim 286 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conrad in view of Woodard, as applied to claims 277 above, and further in view of Delfino et al, US 6,129,658 A ("Delfino").

Claim 286: Neither Conrad nor Weinand teach that the hollow tube 76 has been treated with phosphoric acid. However, Delfino teaches using phosphoric acid solutions for treating implantable medical apparatuses (see col. 2, ll. 35-36). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to treat Conrad's hollow tube 76 (or Weinand's hollow tube 1) with phosphoric acid because Delfino discloses that "Metal-phosphate coating processes using phosphoric acid solutions are also known for depositing coatings of to prevent corrosion, lubricate, prolong the life of metal surfaces, and improve paint coating adhesion" (see col. 2, ll. 35-36).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navin Natnithithadha whose telephone number is (571) 272-4732. The examiner can normally be reached on Monday-Friday, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II, can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Navin Natnithithadha
Patent Examiner
Art Unit 3735
08/06/2007